

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on January 21, 2003 at 3 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Eileen J. Carney, Vice Chairman (D)
Rep. Scott Mendenhall, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Rod Bitney (R)
Rep. Larry Cyr (D)
Rep. Ronald Devlin (R)
Rep. Gary Forrester (D)
Rep. Ray Hawk (R)
Rep. Hal Jacobson (D)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Penny Morgan (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Linda Keim, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

The time stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 229, HB 152, HB 290,
1/15/2003
Executive Action: None

HEARING ON HB 229

{Tape: 1; Side: A; Approx. Time Counter: 0 - 12.4}

Sponsor: REP. BERNIE OLSON, HD 76, SOUTHWEST FLATHEAD COUNTY

Opening Statement by Sponsor:

REP. BERNIE OLSON said that HB 229 asks for authorization to place a constitutional amendment before the voters. The amendment in section 2 adds the ability of the state legislature, with a three-fifths vote, to change county boundaries and move county seats. **REP. OLSON** brought county population figures from Year 2000 Census.

EXHIBIT (loh12a01)

He also brought a list entitled: "Actual Spending by County Fiscal 2001", covering all counties except three.

EXHIBIT (loh12a02)

Figures from 20 counties with smaller populations, taken at random, show a total cost of \$46.8 million for those counties to operate. Rationale behind the bill is twofold: increasing government growth and cost; and the need for both property tax relief and the availability of more local money. There is a need to identify where there is too much government per capita. He said that 14 counties have under 2,500 people, one county has under 500, and one has under 1,000. There are 22 counties with 5,000 or fewer people, and in the entire state there are 37 counties that have 10,000 people or less. All counties have operating budgets of various sizes, and they serve a small number of people in comparison to larger populated counties. "It is only common sense that folding these small counties into neighboring counties with larger populations or combining several small ones would be more efficient and thus save taxpayers money, even after allowing for services."

The reason that this amendment is needed is that if we leave current language as it is, self interest of individuals who would lose employment and/or positions of authority would probably cause opposition in the local county. Emotional or convenience reasons might also cause opposition. Current language in the bill allows only minor county consolidation.

The 1889 Constitution, which has language similar to the 1972 Constitution, shows justification for this kind of activity.

REP. OLSON said that the 1935 Montana Code Annotated indicated that the issue of county boundary changes was raised, and two court cases resulted. The ruling from the court said that the

Montana Constitution recognizes the power in the legislature to create new counties to change those already established and alter their boundaries. The period after 1915 created smaller counties out of the large ones we have, going from 17 counties up to the current 56. Reasons were the Homestead Act, World War I, and speculation. This may have made sense because of the differences in communication and transportation 85 years ago. With current advances in technology, communication and transportation are no longer an issue. With current population declines, this amendment would allow a more efficient local government with considerable long-term savings. There would also be a savings to state government, if the HB 124 payment concept is considered.

Proponents' Testimony: None

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 12.6 - 15.4}

Harold Blattie, Montana Association of Counties (MACO), said that they oppose the bill because they believe there are adequate provisions in Montana Constitution through the review process that enable local people to make the decision to modify or consolidate their county boundaries. In addressing a potential savings of taxpayer dollars, he said he would like to have those identified, because road maintenance, law enforcement and other services would not be totally withheld in consolidated counties. He pointed out that HB 124 money is replacement money for lost revenue for particular activities that now go to the state. For example, if two counties are combined, the state will keep the Entitlement Share from one of those counties.

Ronda Carpenter, Cascade County Commissioners, said that they oppose HB 229 for different reasons. Commissioners actually expressed an interest in possibly having fewer counties. They oppose the bill because they feel it is important that the decision to have fewer counties comes from the desire of the people of those counties to merge, rather than having it come from the legislature.

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 15.7 - 23.4}

REP. ALAN OLSON asked what county Flathead County would be merged into if this came about. **REP. BERNIE OLSON** explained that Flathead County has about 80,000 people, three county

commissioners and county government. In terms of per capita, that county government is needed. He said his thought was that it would be a cost savings by merging ten small counties, and possibly having the same level of service for 25,000 people.

REP. ALAN OLSON questioned that there are numerous counties being incorporated into Yellowstone County, but no counties are being brought into Flathead County. **REP. BERNIE OLSON** said that this is just an example for informational purposes; he said that he wasn't suggesting which counties would merge.

REP. DEVLIN asked about the ability of county government to share services. He asked if Petroleum County shares a county attorney with Garfield County. **Harold Blattie** said he was unable to answer that question, but Golden Valley and Musselshell do share a county attorney. **REP. DEVLIN** asked if Petroleum County has a courthouse. **Harold Blattie** said "Yes."

REP. CARNEY referred to Exhibit 2 and asked for clarification of savings in Broadwater County Public Health. Wouldn't the costs still be there. **REP. BERNIE OLSON** said that the information he brought was just to give everyone an idea of how much money was spent in a county for its total budget. He stated that probably only a fraction of the total could be saved, but if five counties were merged into one, there could be one county sheriff instead of five, three commissioners instead of 15, etc. Courthouses could probably be eliminated, and would not have to be maintained. He said that consolidating government would mean less maintenance and more efficiency. The savings are there if we can get past the thought that we can't eliminate a county. At one time we only had 17 counties.

Closing by Sponsor:

REP. BERNIE OLSON said that he recognized that we still have to have services, and that it was not his intent that all this money would be saved. He said that he was just exploring whether we could serve people better with less government and free up some tax dollars to go back to the people. He asked that regardless of how people feel about this particular issue, that they put it up for election and let the voters make the decision.

HEARING ON HB 152

{Tape: 1; Side: A; Approx. Time Counter: 23.7 - 30.0}

Sponsor: REP. STAN FISHER, HD 75, BIGFORK

Opening Statement by Sponsor:

REP. STAN FISHER said that a change to HB 152 allows for accepting and spending monies given by federal governmental agencies as reimbursement for mutual aid. The second change raises authorized disaster expenditures from \$12 to \$25 million for any biennium. He explained that fire suppression, a flood, and other emergency operations due to the 911 disaster caused most of the money to be spent, and left only \$4.3 million in the emergency fund. The governor can only spend this appropriation if a formal declaration of an emergency or disaster is made.

Proponents' Testimony:

Bob Harrington, Administrator of the Division of Forestry within the Department of Natural Resources and Conservation (DNRC), said that they support this legislation. It would provide assistance in handling some of the cash flow problems they experience in providing wildland fire assistance to other states and the federal government in years of extreme drought. Assistance is typically provided in the form of either direct protection equipment, or county fire fighting equipment, as well as facilitating the assistance of private contractor equipment.

Opponents' Testimony: None

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 0.0 - 4.0}

Jane Hamman, Office of Budget and Program Planning, said that they felt there was a need to allow DNRC to spend the mutual aid money. She said that because of budget adjustments that have been made in DNRC over the last several biennia, and with further budget reductions, that the amount of general fund has been reduced. It is more important than ever to be able to spend mutual aid reimbursements. She said that it will reduce the size of a supplemental appropriation that comes before the legislature two years from now. In addition, the governor's emergency account was at the point where they were concerned they would have to call a special session prior to the regular session, just to be able to respond in the event of another major emergency. With the drought and the continuing threat of possible terrorism, it is especially important that the legislature be proactive in increasing the size of that account.

Ann Bachman, Administrator Centralized Services Division in Department of Natural Resources and Conservation, said that according to Greg Petesch, Legislative Fiscal Division, this bill

also puts reimbursement from federal entities into the proper federal account. In past years when they were reimbursed for fire activity by other federal entities or state government, those reimbursements went into the general fund and their costs were netted out. HB 152 allows reimbursements to be put in a federal account.

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 4 - 5.2}

REP. LASLOVICH asked how the \$25 million was arrived at from the original \$12 million. **Jane Hamman** said that by February they had spent \$7.7 million, and they recognized that a large fire could cost up to \$10 million. The other factor they considered was that about every six years, they look at coming to the legislature for an adjustment in this amount. They didn't just want to move it several million and then have to come back with another bill next session.

Closing by Sponsor:

REP. FISHER closed and said that he hoped all the questions had been answered and the bill would get a DO PASS.

CHAIRMAN NOENNIG said that this should have probably been in the Appropriations Committee and he would follow-up on that.

HEARING ON HB 290

{Tape: 1; Side: B; Approx. Time Counter: 6.5 - 11.7}

Sponsor: **REP. RICK RIPLEY, HD 50, WOLF CREEK**

Opening Statement by Sponsor:

REP. RIPLEY said that this is a bill that would change two words. It changes the word "protest" to "authorization". He said that this bill is a fairness bill; and it is not partisan. It gives local government the authorization to establish an improvement district, versus the protest of an improvement district. He described the two types of improvement districts: "RIDs are Rural Improvement Districts, authorized by county commissioners. SIDs are Special Improvement Districts, authorized by city and town councils." Improvement districts can be for a wide variety of improvements: lighting, construction, sanitary sewer system projects, fire districts, fire hydrant maintenance, etc. The changes in this bill do not address any of that, the purpose of

HB 290 will put the burden of proof on local governments, not on the taxpayer.

REP. RIPLEY said that a friendly amendment will be brought forth that covers Page 5, Subsection (3)(c): "50% of the total projected assessments for property in a large subdivision may account for the vast majority of property, and therefore take very few taxpayers to authorize the improvement district." He said that in large subdivisions, a large property owner could impose a large tax increase on a few other taxpayers. He also referred to a proposed friendly amendment on Page 7, Section 14, Subsection (2): "Unanimous vote of the board may overrule the lack of authorization for the construction of sanitary sewers." He commented: "What is the purpose of doing either a protest or an authorization, even if this bill wasn't passed, if the board can overturn the wishes of the taxpayers anyway." **REP. RIPLEY** said that the percent of authorizations required throughout the bill varied between sewer districts, fire hydrant maintenance, etc., and that he felt that the percentages should be consistent. There will also be a request to put a moratorium on constructions that have not begun. These points are valid, and deserve consideration as friendly amendments.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 11.7 - 20.6}

Mike Bennett, representing the Rattlesnake Homeowner's Association in Missoula, and himself, said that he was a small businessman who was on the Missoula City Council for four years. He said that not many other things are done like this. Schools are more important than sewers, sidewalks, lighting districts, etc. that are covered by this, yet an affirmative vote of the people is required for schools. As the law now stands, there is no requirement for any positive support. All that is necessary is to have people that are confused, apathetic, or too scared to say something, and the district goes through.

If governments know they have to have some support for these proposals, it will result in better proposals. **Mr. Bennett** presented a hand-out relative to his testimony to the committee. **EXHIBIT (loh12a03)**

Mr. Bennett also presented a copy of his proposed amendment. **EXHIBIT (loh12a04)**

Mr. Bennett stated that with current law requiring a 75% protest provision, the person that wants to develop the ground is three times as important as the people with the homes who don't want it

developed. He felt that someone who already lives there should be given more consideration. Making the amendment read 50% would make it more reasonable.

{Tape: 1; Side: B; Approx. Time Counter: 20.6 - 30}

Reed Smith, Citizen of Frenchtown, Montana, representing himself and Montanans For Better Government, said that he supports this bill, and that he agreed with both **REP. RIPLEY** and the last speaker. It is important to get the public involved in these projects early on, to explain to them what they are doing, to show their analyses of any information they may have, and what environmental and other impacts there will be. Currently, the government has no motive to do that, because all they have to do is wait for objections. It is very difficult for communities to come up with 75% of the people objecting to the project. He said he had seen paperwork that was very shoddy and legally unsupportable. He said that he lives on five acres west of town and when they put a sewer by his house it will be very expensive.

Bill Clarke, representing Rattlesnake Homeowners Association and himself, said that he has been involved in planning issues in Missoula County for 20 years and his concern in planning issues is fairness. Requiring 75% protests is unfair; it is very hard to get that many together. He said that they consistently get bad information from the city. A pamphlet the city put out referred to the median value of the assessments as being \$6600 for his district, but nothing was said about what the average assessment is. He commented that they won't be treated fairly until they have a significant right to protest, and it is unfair to require a 75% protest provision. (After the meeting, he presented a copy of his remarks for the record)

EXHIBIT (loh12a05)

Dennis Sain, Rattlesnake Homeowner, said that he is retired and on Social Security, and current law requiring 75% of the people to defeat a proposal is not fair. (After the meeting he presented a summary of his remarks.)

EXHIBIT (loh12a06)

{Tape: 2; Side: A; Approx. Time Counter: 0.00 - 4.4}

Loreen Folsom, Citizen from Missoula, Montana, said that it should not be easy for the city to increase their financial burden to the city. It should be the other way around, and the onus should be on them. (After the meeting, she presented a summary statement.)

EXHIBIT (loh12a07)

Will Snodgrass, Citizen from Missoula, Montana, said that he is in favor of HB 290. "Here we consider the rights of citizens seeking legislative, rather than legal relief, from intrusive public works projects funded by overly burdensome, often unnecessary SIDs." He said to keep in mind the typical voter turnout which is about 40%, as well as historic requirements for passage of legislation and election candidates, where 51-52% will get anyone elected. It is unfair to mount a 75% majority protest in light of the other 50% limits in force today. Under the 1500 Series of Laws, public participation is supposed to be guaranteed, and is supposed to demonstrate consistency and balance in the approach to these projects. The Director of Public Works has not been forthright about the permit for this sewer. The discussion of alternative technologies, which is to be guaranteed under the laws mentioned, was not properly covered. He said that pollution from the Missoula Wastewater Plant is an ongoing violation of Interstate Commerce Laws. He said they need to consider the rights of citizens who may be forced out of their homes by expensive SID driven public works projects that have been allowed to proceed in violation of public law. He said that this bill is fair and that he supports HB 290.

{Tape: 2; Side: A; Approx. Time Counter: 4.5 - 7.5}

Betty Natelson, Rattlesnake Homeowners Association, said that they want a chance to work with cities and counties. She said that has not been possible, because it is so easy for them to pass SIDs and so hard for the people to oppose them. This bill is good because it puts the burden of proof on cities and counties and they have to reach out to the people, not just come up with plans and let the people find some way to fight them. The ones the sewers eventually hurt are the financially vulnerable. She said that in Missoula, a vote on sewers is a vote on density. Currently only so many housing units are allowed per acre on septic, whereas they can get more housing units per acre on sewers. Developers want sewers, and since they have large chunks of land, they have more votes. With a 50% threshold and preferably with 50% of the homeowners signing, a few landowners couldn't force everyone else into something that is not appropriate. (She presented a summary statement for the record after concluding her remarks.)

EXHIBIT(loh12a08)

Opponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 7.5 - 14.3}

Mike Kadas, Mayor of Missoula, Montana, said there are 1800 developed lots in the Rattlesnake Valley. Of those 1800, 1100

have access to sewer; the most recent being a citizen initiated SID. The current SID is to finish the project off and is about 570 parcels. The plan adopted several years ago was included in an agreement between all the major point sources in the Clark Fork Basin to try and clean up the Clark Fork River. Part of their responsibility under that program is to facilitate the transition from septic systems to sewer systems.

The area being discussed in the Rattlesnake is built up with two dwelling units per acre, which is high density for septic systems. From past experience they have found that severe water quality problems are inevitable. For example, the Linda Vista area was ordered by the state to convert to sewer several years ago.

Mike Kadas said that he believed this kind of legislation would handicap cities and counties in their response to growth issues in their jurisdictions. If the bill is passed, he feels there will be major changes: 1) Cities and counties will be less willing to initiate SIDs for sewer and other projects, which will create an undesirable development pattern, 2) Home prices will continue to rise because of the cost of land which is dependent on whether sewer is available or not.

{Tape: 2; Side: A; Approx. Time Counter: 14.5 - 17.2}

Ron Alles, Chief Administrative Officer for Lewis and Clark County, said that they also oppose this bill. He said that he felt existing legislation works well. He stated that the intent of special districts is to allow those citizens the opportunity to charge themselves a fee for a service they either need or want. In Lewis and Clark County, there have been eight RIDs proposed in the past two years. Three were initiated by the county in response to phone calls and concerns. Of those three, two were eventually disapproved. Five others were initiated by the neighborhoods themselves, and at least one did not go through. There is a methodology in place today to allow those districts not to be approved, should the citizens not want to do it. Something that has been overlooked is that in addition to the system working, the reason it works is because elected officials are accountable to those constituents. They hold public hearings which have influenced decisions his bosses have made. Mr. Alles stated that the existing system works, and the current laws work; they don't need this change.

{Tape: 2; Side: A; Approx. Time Counter: 17.3 - 19.5}

Byron Roberts, Montana Building Industry Association, said that he represents 1800 home builders and they are concerned about the

impact of HB 290 on the development of new neighborhoods. In order to guide growth and development, they have typically established a partnership with local governments to extend facilities and services to neighborhoods through the Special Improvement District (SID) process. Currently, local home builders are allowed to pay for facilities and make them more affordable by floating a bond that they pay a 4% interest rate on. The current SID process allows for phase development of the neighborhoods, which precludes the installation and payment of all improvements up front.

They feel that citizens provide local officials with certain powers through the election process. If this legislation were passed, it would eliminate the SID process. Cities must remain in the community development business by extending public utilities and guiding the direction of development, and the SID process encourages that. He emphasized that they are not advocating that any of these costs be paid by local government. This legislation further promotes the development of one home at a time on ten acre parcels and it takes away the tool used by communities to assure that: 1) Development takes place contiguous with communities, and 2) Necessary services are provided. He urged opposition of HB 290.

{Tape: 2; Side: A; Approx. Time Counter: 19.7 - 24.9}

Linda Stoll, Montana Association of Planners, Missoula County, said she was also a Lewis and Clark County Commissioner for 12 years. She stated that this affects more than just sewer districts; improvement districts are also used to maintain roads. Her first experience with creating an improvement district came when she met with five people from a neighborhood that had a private plan in effect who were upset when people opted out over the years. She said that there was no mechanism in effect to require payment, so those people ended up paying for snow plowing and general maintenance. Her second experience came when the county could not longer maintain its 1400 miles of roads, and involved looking at areas that served primarily local subdivisions. They came up with 12 subdivisions and tried to create districts to pay for road maintenance. Out of the 12, none advanced, and this proves that existing law is effective.

Ms. Stoll said that the planners biggest concern is the "law of unintended consequences". Most developers could not afford to pay for the complete paving and sewer system on a 50 unit major subdivision. She said they would anticipate making those road improvements over time, as the subdivision became built up. The way that was done was to create this process called "signing waivers of protest," so that the county could go ahead and create the district and keep with a schedule of first building the

roads, the service, the particular subdivision, and then maintaining those roads. Lewis and Clark County did 40-50 when she was on the commission, and there are probably hundreds of those throughout the state that would be adversely affected.

{Tape: 2; Side: A; Approx. Time Counter: 24.9 - 27.9}

David Nielsen, City Attorney, Helena, said that they have not had this problem in Helena. The SID and RID Statutes have been on the books since 1950. In Helena, the SID is used as a tool to raise funds to leverage other funding. For example there are currently four projects where 14% of the cost comes from SIDs and they are leveraging about 86% from various grants. The SID and RID are funding mechanisms for basic infrastructure. Section 18 in the bill indicates that the projects we are looking at are basic services like roads and water. SIDs are used for both residential and commercial projects. Certain large companies, as a general practice, do not protest if their property is included in an SID. If this were changed from "protest" to "authorization", this ambivalence or "wait and see attitude" will defeat a lot of projects that could have gone to significant industrial and commercial areas. This is a tool that the City of Helena has found to work well. They work in partnership with the neighborhoods, they "count the votes" before doing a project, they have neighborhood meetings and find out what the residents want, and then work with them. It would be unfortunate to take a good working relationship and turn it into an adversarial one because of one small problem in northwest Montana.

{Tape: 2; Side: A; Approx. Time Counter: 27.9 - 30}

Alec Hansen, Montana League of Cities and Towns, said that this appears to be an isolated problem in Rattlesnake canyon, but every city and county in Montana uses SIDs at one time or another. SIDs are very effective development tools and have funded many improvements across the state such as roads, bridges, streets, water and sewer, street lights, etc. This bill has been on the books for 50 years, and this is the first time in his career with MACO that they have had a bill where they had to defend the basic process of doing SIDs.

Mr. Hansen said that there are problems if this bill passes. Under current law, the developer will defer the cost of improvements until the neighborhoods fill in, so that the cost can be spread. If this bill passes, that practice may be ended, and developers will then have to pay for all costs up front. He said that he knows from experience that the protest system works because a street lighting district that was proposed in his neighborhood did not go through. He said that the important

thing here is the leverage. The SID, the local contribution, the way we can leverage these funds and combine them with Community Development Block Grants (CDBG) allows improvements to water and sewer systems that are very important, at an affordable cost to the people. That is the most important job in government and we need to keep doing it.

Joe Mazurek, representing the City of Great Falls and D. A.

Davidson, said that they are a major brokerage firm that has worked with a lot of communities to put special improvement districts in place. The current process is certain and people know how it works. This will give authority to the minority who can defeat it by doing nothing. The perception is that 75% protest is frequently required, but that is only in the case of sewer districts. The rest are significantly lower than that.

Steve Wade, Montana Rural Water Systems, Association of Water and Sewer Systems, throughout Montana, urged opposition.

Harold Blattie, Montana Association of Counties, said that they rise in opposition of HB 290.

Jay Skoog, American Council of Engineering Companies of Montana, which represents consulting firms throughout Montana said that they urge opposition to the bill.

Tim Davis, Montana Small Growth Coalition, said that they urge opposition to this bill.

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 30.9 - 32}

REP. MAEDJE asked Mike Bennett whether he was on the Missoula City Council and whether this bill would prohibit the city from doing these improvements. **Mike Bennett** said he was on the Council for four years, and that it would not prohibit the city from doing improvements. **REP. MAEDJE** asked if 50% was required for authorizing most districts. **Mike Bennett** said that it was. **REP. MAEDJE** asked if the vote was based on acreage. **Mike Bennett** said that it was calculated on the assessment levied on the district. **REP. MAEDJE** asked if it would be a friendly amendment to remove the assessment as evaluation of the vote and change it to "one parcel, one vote." **Mike Bennett** said that if 50% were allowed for all, that state law would be more fair.

{Tape: 2; Side: B; Approx. Time Counter: 0.0 - 7.2}

REP. RASER referred to previous testimony that stated current law "may" force developers to pay up front, or there may be some problems, and asked if he was unsure of that. **Alec Hansen** clarified that what he said is that under current law, sometimes the developers will hold off on improvements until the neighborhood fills and there are enough people there to pay for paving the street. Because of the SID and people signing waivers of the right to protest, the city is guaranteed that the SID will go in, and that the improvements can be paid for when those lots sell. With passage of HB 290, a possible consequence is that the city will require the developer to pay for improvements up front.

REP. RASER asked why there is a 75% threshold for sewer districts and only 50% for other improvement districts. **Mike Kadas** said that it probably goes back to the legislature determining that a sewer is critical enough that extra power was needed to insure that it would happen. **REP. RASER** asked if there were fundamental differences in the Missoula and Helena areas that would cause Missoula to have problems. **Mike Kadas** said that it is because: 1) Missoula has a permeable aquifer, and almost half of the development was on septic systems. 2) Missoula has a lot of recent growth and that heightens the tension with growth issues.

REP. RASER referred to the Mullan Road Hearing in previous testimony that discussed state law currently allowing development counter to sewer, utility and electrical growth. She asked for the specific state law that allowed this, because it seemed the sewer system and the RIDs and SIDs were becoming a mechanism to circumvent that area of state law. **Mike Kadas** said that he will find that citation. The law allows a dwelling unit to be built if there is an acre to build it on.

{Tape: 2; Side: A; Approx. Time Counter: 7.2 - 10.8}

REP. MAEDJE said that among other things, part of the problem has been new requirements by the cities to put down a road base of crushed gravel. He asked if, for the sake of allowing a community to protest something they don't want, that may not be along city planning lines, there could be some way the city could work around that in a development, so the developer decides what the streets will be. **Mike Kadas** said that what they are being asked to do is to allow the streets to be built at a substandard level. The consequence is that over time that street breaks up and requires more maintenance than if it were built to the appropriate standards. Then, it either doesn't get fixed and there are consequences to the neighborhood, or it ends up getting fixed out of the city general fund. It is more appropriate to build it right from the start. He gave the example of Curtis Street and said that as development occurs they have required waivers of protest on an SID to rebuild that street. If they

don't have the ability to get the waiver as new developments happen, they will be required to rebuild the section of street that is in front of their development and they will end up with only part of it completely rebuilt and it will also cost more in the long run.

{Tape: 2; Side: A; Approx. Time Counter: 10.8 - 16.0}

REP. RASER asked if there could be a process where the developer could continue, and current landowners could protest and add on to the sewer at a later date. **Mike Kadas** commented to the committee that the project **REP. RASER** is describing is different because it is new development. He said that they try to be sensitive to current landowners. If they use the developer to build the system in that area, there will be access to current landowners. They will receive benefit from that facility, and at some time their septic systems will fail and they will want to be on it. Many of them own large enough acreage that, with sewer access, they will be able to subdivide and receive substantial profits. **REP. RASER** asked if it were possible for the developer to pay those costs, and as people wanted to access it they could do so. **Mike Kadas** said that someone has to do the initial financing of the portion that those residents are going to pay back over time. The situation being described is complicated enough that if you try to legislate it there will be a big mess. It is not possible to make everyone happy all the time; this concerns dollars, impact to lives and neighborhoods.

{Tape: 2; Side: A; Approx. Time Counter: 16 - 21.1}

REP. MAEDJE said that there are financially stressed individuals in the Rattlesnake area, and the way the SID is set up does not take this into consideration. Is there a trade off that might be made to reduce the 50%, going from protest to authorization. He asked if this is a fair balancing act. **Mike Kadas** said that it is a balancing act, and they try to work with it. For example, under state law they can assess based upon taxable value, square footage, or front footage. They have used a combination of 50% taxable value and 50% square footage. They also have a Community Development Block Grant (CDBG) program, and if income guidelines are met, a subsidy is offered.

REP. MAEDJE referred the same question to **Mike Bennett**, who said he wanted to make it clear there is no water quality problem in that area. He said that in regard to the question about assessments, that is why they favor the bill. Amending the bill to make everything 50% will answer that question.

{Tape: 2; Side: B; Approx. Time Counter: 21.1 - 22.8}

REP. FORRESTER asked if the bill would still be needed if they got all the signatures, or does that solve the problem. **Mike Bennett** said the bill is still needed because if they go to all the trouble of organizing and fighting this thing, the city has the right to come back in six months and try again.

REP. BECKER asked Mike Kadas if he thought there was a water quality problem. **Mike Kadas** said that he did believe there was, and that this was one of the areas identified with a water quality problem seven or eight years ago. He said that there are over 500 dwelling units and more than two units per acre. "It could not be built that way today, as bad as current law is."

{Tape: 2; Side: B; Approx. Time Counter: 22.8 - 25.6}

CHAIRMAN NOENNIG asked whether changing the word "protest" to "authorization" is still workable. The procedure is designed for the city to propose an SID or an RID, and put it out to the landowners for protest. Then there is a hearing on the protest. Is it workable from a procedural standpoint. **David Nielsen** said that he read the bill and procedurally this makes it very cumbersome. With authorization until the time of resolution, the cities or counties would have 15 days to get the authorization signatures. The way the bill is written, the signatures couldn't be obtained before that date. If they weren't gotten within that time frame, the bill has a moratorium that is currently based on the action of having sufficient protest. This reverses that and says there is a moratorium if you don't get the authorization, i.e., it is triggered by non-action. Administratively they are concerned that even simple SIDs could be very cumbersome. He said that trying to contact large commercial properties to see if they will sign the authorization, when they hold the key votes, could be devastating to SIDs that otherwise might be acceptable.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 25.6 - 27.7}

REP. RIPLEY said that he represents the northern portion of Lewis and Clark County and that he brought this bill because his constituents asked him to. He asked the committee to visit with their constituents before voting on this bill. He said that they would find that it is a state issue. "This bill is a fairness issue, a local control issue, and a bill for taxpayers of all districts. It puts the burden of proof on local governments rather than taxpayers." The only changes addressed in this bill are from "protest" to "authorization." He asked consideration of the amendments that were offered to HB 290.

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. MARK NOENNIG, Chairman

LINDA KEIM, Secretary

MN/LK

EXHIBIT (loh12aad)